



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0059; Notice 1]

Daimler Trucks North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Daimler Trucks North America, LLC, (DTNA) has determined that certain model year (MY) 2022-2023 Freightliner (FCCC) EconicSD do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. DTNA filed a noncompliance report dated May 12, 2022. DTNA subsequently petitioned NHTSA on June 8, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of DTNA's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Manuel Maldonado, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-8731.

SUPPLEMENTARY INFORMATION:

I. Overview:

DTNA has determined that certain MY 2022-2023 Freightliner (FCCC) EconicSD do not fully comply with paragraphs S11.3.18 and S11.3.19 of FMVSS No. 106, *Brake Hoses* (49 CFR 571.106). DTNA filed a noncompliance report dated May 12, 2022, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports*. DTNA subsequently petitioned NHTSA on June 8, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of DTNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles and Equipment Involved:

Approximately 149 MY 2022-2023 Freightliner (FCCC) EconicSD, manufactured between June 24, 2019, and March 9, 2022, are potentially involved. The part numbers of the fittings involved are A 000 990 40 78 and A 000 990 43 78.

III. Noncompliance:

DTNA explains that the noncompliance is that certain fittings used in the subject vehicle's air brake system failed to pass the tensile strength test under boiling conditions and tensile strength test under thermal conditioning, and therefore, do not comply with paragraphs S11.3.18 and S11.3.19 and Table VIII of FMVSS No. 106. The subject vehicles are equipped with an air brake system containing tubing that has a nominal outside diameter (OD) of 8 mm

and do not meet the conditioned tensile load 75 lbf as required by Table VIII of FMVSS No. 106.

IV. Rule Requirements:

Paragraphs S11.3.18 and S11.3.19 of FMVSS No. 106 include the requirements relevant to this petition. S11.3.18 requires that a plastic air brake tubing assembly, when subjected to a tensile pull test, must either elongate 50 percent or withstand the conditioned tensile load in Table VIII of FMVSS No. 106 without separation from its end fittings, with one end of the assembly conditioned in boiling water for 5 minutes. S11.3.19 requires that a plastic air brake tubing assembly, when subjected to a tensile pull test, must either elongate 50 percent or withstand the conditioned tensile load in Table VIII without separation from its end fittings after the assembly has been subjected to four cycles of conditioning in air at minus 40 degrees Fahrenheit (minus 40 degrees Celsius) for thirty minutes, normalizing at room temperature, conditioning in boiling water for 15 minutes, and normalizing at room temperature.

V. Summary of DTNA's Petition:

The following views and arguments presented in this section, "V. Summary of DTNA's Petition," are the views and arguments provided by DTNA. They have not been evaluated by the Agency and do not reflect the views of the Agency.

DTNA describes the subject noncompliance and states that the noncompliance is inconsequential as it relates to motor vehicle safety. DTNA explains that the subject noncompliance occurred because DTNA carried over a European Econic vehicle fitting into the U.S. market that had been believed to be compliant to FMVSS No. 106. DTNA later discovered it was not certified to paragraphs S11.3.18 and S11.3.19 of FMVSS No. 106. DTNA says that the noncompliant fittings "are used only in locations protected from stresses and thermal/boiling conditions." Therefore, DTNA believes that the subject noncompliance should be deemed inconsequential to motor vehicle safety because the noncompliant fittings are protected from the stresses that are tested by paragraphs S11.3.18 and S11.3.19 of FMVSS No. 106.

DTNA states that the noncompliant fittings have been used for 9 years in the European market and 3 years in the U.S. and Canadian markets, and “there has been no evidence of airline separations.” DTNA investigated claims related to tensile loads on the noncompliant fittings that were used in the subject vehicles across all of the vehicles with the same fitting that were sold in Europe, the United States, and Canada, and found no evidence of problems.

DTNA describes the location of the noncompliant fitting in the subject vehicle and provides photos to show that the noncompliant fittings “are mounted with protections and stress relief, such that there are none of the tensile loads against which the FMVSS [No.] 106 provision was intended to protect.” Due to the location of the fittings, DTNA contends that they “would not be subjected to any loads” and the area “is expected to be free from debris, boiling water, abnormally high temperatures, and so forth, such that the integrity of the fittings would not be affected.” Further, DTNA states the noncompliant fittings have never failed and DTNA is not aware of “any scenarios which would cause the air fittings to separate from the connection points.”

DTNA says that it tested a sample of the tubing configuration used in the subject vehicles and found that the tubing failed during all four pull strength tests at an average of 37.5 lbf for tensile load strength, which is 50 percent less than what is required by S12.19 of FMVSS No. 106. However, DTNA stated its belief that the tubing would not be subjected to tensile forces as high as the 75 pounds required by FMVSS No. 106 due to the location of the air brake system used in the subject vehicles, as described above.

DTNA claims that NHTSA precedent supports granting DTNA’s petition for the subject noncompliance. DTNA refers to the granting of a petition submitted by Coupled Products, Inc.¹, in which brake hose assemblies it produced did not comply with the tensile strength requirement provided in S5.3.4 of FMVSS No. 106 (a hydraulic brake hose assembly is required to withstand

¹ Coupled Products, Inc., Grant of Petition for Decision of Inconsequential Noncompliance; 70 FR 35774 (June 21, 2005).

a pull of 325 pounds without separations of the hose from its end fittings during a slow pull test, and a pull of 370 pounds during a fast pull test) and the water absorption and tensile strength requirement provided in S5.3.6 (a hydraulic brake hose assembly, after immersion in water for 70 hours, is required to withstand a pull of 325 pounds without separation of the hose from its end fittings during a slow pull test, and a pull of 370 pounds during a fast pull test). DTNA believes that, like the noncompliance that Coupled Products, Inc., described, the noncompliant fittings used in the subject vehicles are also “restrained within assemblies under the cab body and protected under the dash,” therefore, DTNA contends that there are no forces acting upon the noncompliant fittings.

DTNA concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, be granted.

DTNA’s complete petition and supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. Additional Information:

On July 6, 2022, NHTSA contacted DTNA for clarification on certain parts of its petition. DTNA provided the name of the fabricating manufacturer for the hose assemblies, Arco, and provided the intended OD of the hose assemblies, 8 mm. DTNA also clarified the statements describing the testing of the sample tubing configuration. DTNA provided the test results and found that the average tensile load at which the noncompliant component failed was 37.5 lbf.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to

exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles and equipment that DTNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant brake hoses and equipment under their control after DTNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance

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